

## **REMARKS**

### **I. Introduction**

Applicants note with appreciation the Examiner's indication that claims 1-3 and 6 are allowed. Claim 8 remains rejected, and it is addressed below.

Upon entry of the present amendment, claims 1-3, 6, and 8-10 will be pending in this application. Claim 8 has been amended to clarify certain aspects of the invention. New claims 9 and 10, which depend from claim 8, have been added. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

### **II. 35 U.S.C. § 103**

The Examiner has rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,409,453 to Smith in view of U.S. Patent No. 4,737,373 to Forney, further in view of U.S. Patent No. 5,166,487 to Hurley. The Examiner's position is that Smith in view of Forney teaches substantially all the limitations of claim 8 with the possible exception of directing microwave energy from the opposing side of the cooking chamber. The Examiner submits that Hurley teaches a cooking oven in which the microwave heating is enabled by multiple microwave generating magnetrons that are desirably arranged "at opposite ends of the cooking chamber" to direct microwave energy to a food product. The Examiner's position is that it would have been obvious to modify the cooking method of Smith by incorporating Hurley's directing microwave energy at opposite sides of the cooking chamber in order to arrive at the claimed invention. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

#### Claim 8

Without acquiescing to any of the Examiner's statements, Applicants submit that the Examiner has failed to present a *prima facie* case of obviousness, because none of the cited references, nor their combination, teach or suggest element (k) of claim 8 – that said gas conduit means and said microwave waveguides define *separate paths* whereby the hot gas and microwave energy *do not mix* prior to entering the oven cavity. The Examiner has failed to point to any disclosure in any of the cited references wherein hot gas and microwave energy are directed into the oven cavity along separate paths and wherein they do not mix prior to that entry. As previously argued, both Smith and Hurley disclose ovens in which the hot gas and microwave energy mix *prior to entering to oven cavity*. Further, the Forney patent discloses an oven using hot gas only. Accordingly, because the Examiner has failed to cite a reference or a combination of references that teach or disclose each and every claimed element of claim 8, Applicants submit that claim 8 should be considered allowable.

#### Claim 9

The element regarding the direction of the gas being introduced into the oven from the left and right sides rather than from the top wall has been moved to dependent claim 9, which now recites “and not from the top wall.”

#### Claim 10

New claim 10 has been added to recite that the cooking rack does not have a mechanism for moving food placed on the rack. Support for this amendments appears at least in Figure 1, which shows a cooking rack that remains fixed relative to the gas directing means (as also recited in claim 1).

Finally, as previously argued, Applicants continue to disagree with the Examiner's assertion that the Smith reference teaches colliding gas streams. The arguments presented in previous responses are incorporated here by reference.

### **CONCLUSION**

For at least the above reasons, Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. If the Examiner believes there are any issues that can be resolved via a telephone conference, or if there are any informalities that can be corrected by an Examiner's amendment, she is invited to contact the undersigned.

Respectfully submitted,

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